

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES MICHAEL ANDERSON,

Defendant - Appellant.

No. 06-50444

D.C. No. CR-03-00212-TJH-01

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Terry J. Hatter, District Judge, Presiding

Submitted November 13, 2007<sup>\*\*</sup>

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

James Michael Anderson appeals from his guilty-plea conviction and the 72-month sentence imposed for two counts of armed bank robbery in violation of 18 U.S.C. § 2113(a), (d). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

---

<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Anderson contends that the district court violated Fed. R. Crim. P. 32(i)(3)(B) by failing to resolve a factual dispute regarding the Presentence Report. We disagree. The district court did not use the disputed facts to increase the length of Anderson's sentence. *See United States v. Saeteurn*, No. 06-10401, 2007 WL 2983806, at \*4 (9th Cir. Oct. 15, 2007).

Anderson also contends that the district court clearly erred by denying him a downward adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1. We disagree. Anderson's contrition is outweighed by his pre-trial absconding and the district court did not clearly err in concluding that this was not an "extraordinary case" in which both obstruction of justice and acceptance of responsibility adjustments applied. *See United States v. Thompson*, 80 F.3d 368, 371 (9th Cir. 1996).

**AFFIRMED.**